

**TOWN OF PARADISE VALLEY
BOARD OF ADJUSTMENT
JUNE 5, 2013
MINUTES**

PRESENT: Emily Kile, Chair
Rick Chambliss, Board Member
Catherine Kauffman, Board Member
Eric Leibsohn, Board Member
Hope Ozer, Board Member
Jonathan Wainwright, Board Member

ABSENT: Robert Nagle, Board Member

STAFF: Eva Cutro, Planning Director
George Burton, Planner
Andrew Miller, Town Attorney

CALL TO ORDER

The work study session meeting of the Town of Paradise Valley Board of Adjustment was called to order by Chair Kile at 5:30 p.m.

WORK/STUDY DISCUSSION ITEMS

Discussion of a variance from the Zoning Ordinance, Article X, Height and Area Regulations, and Article XXIII, Nonconformance, to allow a nonconforming carport to be enclosed. The property is located at 6210 E. Hummingbird Lane (Assessor's Parcel Number 169-49-026).

Chair Kile reviewed the meeting procedures.

Mr. Burton presented this case as per the project coordination packet. The applicant requests a variance from Article X, Section 1001, and Article XXIII, Section 2307, to allow a nonconforming carport to be enclosed and converted into a family room. Section 1001 requires a 40 foot front yard setback and Section 2307 prohibits the alterations of a nonconforming aspect. The existing carport encroaches into the front yard setback (with a setback of 31'9" from the front property line) and enclosing the carport results in an increase in the nonconforming aspect since the enclosed area increases the mass or presence of the structure.

Mr. Burton reviewed the findings in favor and the findings opposed for this request. Mr. Burton advised that a neighbor notified staff about the carport's enclosure without a permit; however, staff has not received any comments regarding this variance request.

Mr. Burton advised staff recommends a motion to approve the variance request to allow a nonconforming carport to be enclosed.

In response to a question from Board Member Ozer, Mr. Burton replied that the carport has already been enclosed. He advised there is one violation on this property – a notice of violation for enclosing the carport without zoning and building approval. Discussion ensued regarding the other modifications made to the property. Ms. Cutro advised that the stop work order was issued only on the portion of the structure not in compliance. Board Member Chambliss stated that the other issues are not before the Board. What is before the Board is whether the construction of the enclosure meets the variance requirement.

Mr. Burton responded to questions from the Board members regarding the variance request.

PUBLIC HEARING

Consideration of a variance from the Zoning Ordinance, Article X, Height and Area Regulations, and Article XXIII, Nonconformance, to allow a nonconforming carport to be enclosed. The property is located at 6210 E. Hummingbird Lane (Assessor's Parcel Number 169-49-026).

Jordan Rose, Rose Law Group, representing the applicants, reported that as soon as the homeowner was advised of the violation they started the process to resolve the situation. She discussed the confusion with the plans regarding the carport. She stated the problem her client made was in trusting his consultants.

Ms. Rose stated a variance is necessary to allow the legal non-conforming carport to be enclosed as interior space which will be used as a family room. This request does not change the footprint of the home or extend any farther into the setback. She further stated the unique nature of the property's extreme slope and topographic complexities create a clear hardship drastically limiting the buildable area of the lot making this variance necessary to allow the applicant to enjoy the same rights and privileges of other property owners. Approval of this request for a variance would provide relief from the hardship of the slope of the property without allowing any additional encroachment into the setback than was originally in existence.

In response to questions from Board Members, Ms. Cutro provided information on the permits that were approved for this property, the inspections on this property, and the violation notice.

Ms. Rose responded to questions and comments from the Board Members regarding this variance request.

Chair Kile opened public comment.

John McCauley spoke in opposition of this request. He inquired if the homeowner was aware of the violation regarding the carport when he purchased the property. Chair Kile advised that the carport was a legal non-conforming structure when he purchased the property. Ms. Cutro stated that there was confusion regarding what was allowed under the permit.

Mr. McCauley inquired about the permits that were issued on this property to modify the roof of the house, pool and outdoor patio. Mr. Burton replied the violation is the enclosed carport. Mr. McCauley outlined his issues with the modifications made to the property. Chair Kile advised that he has raised a lot of issues that are not before the Board. She provided information regarding criteria the Board must follow in making their decisions.

Mr. McCauley expressed his concern that this variance request is before the Board and it has already been built and he is against this request for that reason.

Chair Kile closed public comment.

Board Member Chambliss move for approval of Case No. BA-13-2, a request by Christopher Greulich and Matthew Boland, property owners of 6210 E. Hummingbird Lane; for a variance from the Zoning Ordinance, Article X, Height and Area Regulations, and Article XXIII, Nonconformance, to allow a nonconforming carport to be enclosed. Seconded by Board Member Wainwright.

Board Member Ozer stated that she finds the variance requested does meet the variance criteria but is dismayed the carport was enclosed first and the variance requested second.

Board Member Wainwright stated that he also finds the requested variance does meet the variance criteria but is dismayed the carport was enclosed before the variance was requested.

Board Member Chambliss stated that he is also dismayed that the structure was build without requesting a variance but the request does meet the variance criteria.

Chair Kile stated that she is also dismayed that the structure was built without requesting a variance. She further stated that a lot of work has been done on this property and she finds it hard to believe it was unclear whether the carport should be enclosed. She commented that the impact to the Town is small and the footprint has not changed.

Board Member Kauffman stated that she also finds the requested does meet the variance criteria.

The motion was approved unanimously by a vote of six (6) to zero (0).

CONSENT AGENDA

Minutes of the April 3, 2013 Board of Adjustment Meeting

Board Member Ozer moved to approve the consent agenda as presented. Second by Board Member Leibsohn.

The motion passed unanimously by a vote of six to zero.

BOARD REPORTS/STAFF COMMENTS

Mr. Burton reported that staff has received a variance application and inquired if the Board wanted to meet on the next regularly scheduled meeting on July 3rd. It was determined that staff would pick another date in July.

ADJOURNMENT

Board Member Ozer moved to adjourn at 6:55 p.m. Seconded by Board Member Wainwright and passed unanimously.



Eva Cutro, Secretary